IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2483 OF 2007

R.B.Constn. & Engineers & Contractors
through Bhupendra Ratilal Karia ....Petitioner
V/s
M/s.GX Engineering Trading through Power of
Attorney holder Sachidanand D. Purekar..... .....Respondent.

Mr.Siddharth Karpe i/by M/s.Y.K.S.legal Adv. For the petitioner.

Mr.Vikas Shivarkar i/by Mr.J.D.Kharinar, Adv. For the respondent.

CORAM: A.P.DESHPANDE, J.
6/8/07

PC:

Though the petitioner put an appearance in suit and filed written statement he has chosen to remain absent thereafter which resulted in passing of an ex-parte decree in the sum of Rs.30,000/-. After the petitioner was served with the notice of execution proceedings an application came to be filed for setting aside the ex-parte decree and along with the same an application for condonation of delay was also filed. There was a delay of about 287 days in filing the application for setting aside exparte decree. Evidencewas led in support of the case of the petitioner that he was not keeping good health and hence could not participate in the proceedings in the suit. After considering the evidence on record the trial Court has recorded a finding that the petitioner was not continuously ill and was no advised continuous bed rest. The Court

has also on appreciation of evidence recorded finding that it was possible for the petitioner to attend the Court and contest the suit. The trial Court being of the view that no sufficient cause has been shown for condonation of delay has rejected the application. Perused the order impugned in the petition. Same does not suffer from any patent illegality requiring interference in exercise of writ jurisdiction. View taken by the trial Court is a possible view. Hence writ petition is summarily dismissed.

6.8.07